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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,317	08/27/2003	Ryo Kuroda	03560.003343	3665
5514	7590	07/28/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				RUGGLES, JOHN S
ART UNIT		PAPER NUMBER		
		1756		

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/648,317

**Applicant(s)**

KURODA ET AL.

**Examiner**

John Ruggles

**Art Unit**

1756

**-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -**

THE REPLY FILED 18 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply <sup>WOULD have</sup> ~~has~~ overcome the following rejection(s): See Continuation Sheet.

6.  Newly proposed or amended claim(s) 3-4 <sup>re-submitted as currently proposed</sup> ~~would~~ be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1,5 and 6.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 3,4 and 15-18.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.

13.  Other: \_\_\_\_\_.

  
**S. ROSASCO**  
**PRIMARY EXAMINER**  
**GROUP 1500**

Continuation of 3. NOTE: the currently proposed amendment of claims 15 and 17 includes new limitations presented for the first time, which would raise new issues that would require further consideration.

In particular, the currently proposed amendment of claim 15 would require for the first time that the near-field photomask be for forming a latent image on an exposure target in a (single) "discrete" region "at which" the (single) second slit opening "crosses" the first slit openings (plural). It is unclear whether this single discrete region was intended to include (1) only one or (2) both crossing(s) of the second slit opening with the first slit openings interlinked by the second slit opening. Claim 16 depends on claim 15.

Similarly, the currently proposed amendment of claim 17 would require for the first time that the near-field photomask be for forming a latent-dot-image on an exposure target in a (single) "discrete" region "at which" the first slit openings (plural) "cross" the (single) second slit opening. Again, it is unclear whether this single discrete region was intended to include (3) only one or (4) both crossing(s) of the second slit opening with the first slit openings interlinked by the second slit opening. Claim 18 depends on claim 17.

Therefore, this proposed amendment would also necessitate a new rejection of claims 15-18 under the second paragraph of 35 USC 112.

Continuation of 5. Applicant's reply WOULD have overcome the following rejection(s): the previous rejection of claims 3-4 under the second paragraph of 35 USC 112 WOULD have been overcome by the current amendment, but this amendment has not been entered for at least the reasons set forth herein; leaving claims 3-4 as still being rejected for the reason set forth in the previous Office action.

Continuation of 11. does NOT place the application in condition for allowance because: the amendment has not been entered since it raises new issues that would require further consideration, as stated above.

jsr  
571-272-1390